

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

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February 25, 2003

FROM: **DAVID H. SLAUGHTER**, Director  
Real Estate Services Department

**RUDY G. LOPEZ**, Director  
Department of Behavioral Health

SUBJECT: **LEASE AMENDMENT WITH PEAK III ENTERPRISES, LLC**

RECOMMENDATION: Approve Amendment No. 6 to Lease Agreement No. 89-941 with Peak III Enterprises, LLC to reflect a change in ownership and extend the term through November 30, 2006 for 7,346 square feet of office space in San Bernardino for the Department of Behavioral Health (DBH) in the amount of \$486,600.

BACKGROUND INFORMATION: On October 23, 1989, the Board approved a seven-year lease agreement with Carol T. Filarski and James J. Filarski dba C and J Enterprises for 5,436 square feet of office space for DBH at 939 North "D" Street in San Bernardino. The space is occupied by the East Valley Intensive Day Treatment Program, Hospital Aftercare Services Program, Medication Clinic, and Regional Program Administration. The original term was from December 1, 1989 through November 30, 1996 and included three two-year options to extend the term. In the 13 years since the lease was originally approved, the Board has approved five amendments, which are summarized below.

Amend.

<u>no.</u>	<u>Approval date</u>	<u>Action</u>
1	May 11, 1992	• Added 1,445 sq. ft. at 955½ North D St. and provided for additional tenant improvements
2	Apr. 19, 1993	• Reflected landlord name change from C and J Enterprises to Carol T. and James J. Filarski
3	Dec. 17, 1996	• Exercised the first two-year option
4	Sep. 15, 1998	• Exercised the second two-year option
5	Mar. 7, 2000	• Extended the term through November 30, 2002 • Replaced the existing paragraph in the contract regarding options to extend the term, which deleted the remaining option while providing two additional two-year options

DBH requested Real Estate Services Department (RESA) exercise the two remaining two-year options to extend the term four years. During negotiations, the current owner presented documentation indicating the leased premises are greater than the 6,881 square feet stated in the lease. The site plan attached to the original lease shows the square footage in the buildings located on the site. The spaces in the building leased by the County are also indicated. The buildings were measured by RESA and compared with the site plan attached to the original lease. While the indicated leased spaces and the scale of the drawings are correct, the square footage stated in the lease was not correct. It was determined that the total leased space is 7,346 square feet. The landlord has not requested any retroactive rent for the additional square footage only that the correct amount of space be reflected in Amendment No. 6. The lease terms summarized as follows:

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Lessor:	Peak III Enterprises, LLC (Rita Tovella, Member)		
Location:	939, 955 & 955 1/2 North "D" Street, San Bernardino		
Size: (old)	6,881 square feet		
(new)	7,346 square feet		
Term:	Four years		
Rent: (old)	<u>Cost per sq. ft. per month</u>	<u>Monthly</u>	<u>Annual</u>
(new)	\$1.28	\$8,808 (for 6,881 sq. ft.)	\$105,696
	\$1.32*(3%increase)	\$9,697 (for 7,346 sq. ft.)	\$116,364
	*Mid-range for the San Bernardino area		
Options:	None remaining		
Improvement costs:	Landlord provided tenant improvements. No cost to County.		
Custodial:	To be provided by Lessor		
Maintenance:	To be provided by Lessor		
Utilities:	To be provided by Lessor; however, County will be responsible for monthly electrical costs in excess of \$0.22 per sq. ft.		
Right to terminate:	County has the right to terminate with 90 days notice.		
Parking:	Sufficient for County needs		

REVIEW BY OTHERS: This item has been reviewed by County Counsel (Fiona Luke, Deputy County Counsel) on January 3, 2003; DBH (Claudia Rozzi, Deputy Director of Administrative Services) on February 7, 2003; and the County Administrative Office (Daniel R. Kopp, Administrative Analyst) on February 18, 2003.

FINANCIAL IMPACT: The total cost of this four-year amendment is \$486,600. The cost for fiscal year 2002-03 is \$111,919 (\$8,808 x five and \$9,697 x seven months). State budget impacts are not considered a major factor in the leasing decision because these program expenditures are 100% federally and state funded.

Payments will be made from the Rents budget (AAA RNT) and reimbursed from the DBH budget (AAA MLH). Sufficient appropriation is available in both budgets. Approval of this item will not result in local cost. Annual lease costs are as follows:

<u>Year</u>	<u>Annual lease cost</u>
December 1, 2002 - November 30, 2003	\$116,364
December 1, 2003 - November 30, 2004	119,892
December 1, 2004 - November 30, 2005	123,408
December 1, 2005 - November 30, 2006	126,936

COST REDUCTION REVIEW: The County Administrative Office has reviewed this agenda item, concurs with the department's and RESD's proposal, and recommends this action based on programmatic needs for space. Lease payments are made from non-general fund sources. Funding is available, ongoing in nature, and not in imminent jeopardy of being cut at the state or federal level. If funding is reduced or eliminated, the lease can be terminated with 90-days notice. Consolidation of this space with other existing space has been explored and no feasible opportunity exists at this time.

SUPERVISORIAL DISTRICT: Fifth

PRESENTER: David H. Slaughter, Director, 7-7813

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